

REMARKS

Without acquiescing to the propriety of the rejections in the Final Office Action dated January 24, 2008, claims 1, 10 and 11 have been amended and claims 9, 15 and 19 have been cancelled. Entry of the amendments, reconsideration of the present patent application and allowance of all claims pending herein are respectfully requested in view of the remarks below. Claims 1-8, 10-14, and 16-18 are now pending.

Claim Objections

Claim 11 stands objected to as being a duplicate of claim 10. Applicant respectfully points out that claim 10 is a method claim while claim 11 is a product by process claim and thus they are not duplicates of one another.

Claims 18-19 stand objected to because the limitation “the panel according to” was utilized in line 1 in each of these claims. As indicated above, claim 11 is a product by process claim and thus the language in claim 18 and previous (now cancelled) claim 19 conform to the language of claim 11.

§ 103 Rejections:

Claims 1-8 continue to be rejected as being obvious over Wilson (U.S. Patent No. 5,590,493) in view of Jerit (U.S. Patent No. 3,667,187), and in further view of Laven (U.S. Patent No. 4,124,907). In particular, Wilson is alleged to disclose all the features of claim 1 except for the panel being between 1000 mm and 2000 mm, which is alleged to be disclosed by Jerit, and an upper horizontal flange having in its thickness a profile groove, which is alleged to be disclosed by Lavin.

Amended claim 1 of the present application recites, *inter alia*, a panel for producing a swimming pool which includes the panel being produced by compression injection-molding of a recycled plastic in order to achieve a length of between 1000 mm and 2000 mm, a thickness of approximately 7-8 mm with a plurality of stiffening ridges overhanging an outer face of the panel and a base of the ridge being approximately 6-7 mm. An upper horizontal flange has a thickness including a profile groove for engagement and clamping of the protective sheet for a liner

covering an inner face of the panel. The horizontal flange includes a first portion and a second portion bounding the groove and extending away from the outer surface of the panel about a same distance as the plurality of stiffening ribs extend away from the outer surface of the panel. A horizontal upper edge of the outer face of the panel delimits a strip formed from a plurality of ribs arranged in a honeycomb.

As indicated above, claim 1 has been amended and incorporates features of previous claims 5 and 9. Previous claim 9 was rejected as being obvious over Wilson in view of Jerit and Laven in further of Carling et al. Carling et al. discloses a panel having a plurality of ribs arranged in a staggered fashion in the form of a honeycomb and therefore is alleged it would be obvious to one of ordinary skill in the art to modify the panel of Wilson in view of Jerit and Laven to include the staggered fashion including the honeycomb as taught by Carling et al. in order to provide a configuration for increased structural stability and integrity of the panel.

Carling et al. discloses a polymer tile for forming a floor covering which includes a honeycomb configuration of intermediate wall structure that is interconnected between inner portions of a perimeter wall and forms recurring hexagon units of hexagon support walls. Applicant respectfully points out that the floor tiling for use in modular flooring assemblies, such as for athletic play areas, disclosed in Carling et al. is totally unrelated to utilizing a honeycomb structural support for pool panels such that a stiffening profile metal piece encircling an upper part of such panels may be avoided as described in paragraph [0038] of the present application. Applicant respectfully asserts that there would be no reason to combine Carling et al. with the other references and even if they were combined they would not result in the features recited in claim 1.

Applicant respectfully asserts that the Office Action must provide a sufficient reason or explicit analysis of why the references should be combined. *Ex parte Erkey et al.*, Appeal 2007-1375 (BPAI May 11, 2007). *Prima facie* obviousness requires “articulated reasoning with some rational underpinning” and unsupported assertions are not adequate. *In re Kahn*, 441 F. 3d 977,988 (C.A. Fed. 2006). There is no indication in Carling et al. that a plurality of ribs arranged in a honeycomb fashion would provide structural support to a curved pool panel, particularly

considering the flat nature of the floor panels disclosed in Carling et al. Moreover, there is no reason taught, disclosed or suggested in Carling et al. to cause one to place such a honeycomb pattern at a horizontal upper edge of an outer face of such a panel as recited in claim 1. The mere existence of the configuration of a honeycomb in Carling et al. would not provide the rationale for a horizontal upper edge of an outer face of a panel of a pool delimiting a strip formed from a plurality of ribs arranged in a honeycomb. The allegation in the Office Action that such a honeycomb would be obvious from Carling et al. “in order to provide a configuration for increased structural stability and integrity of the panel” is a mere generality that does not provide sufficient basis to arrive at the recitation in claim 1 nor the proposed combination of references.

Further, the Office Action alleges that Lavin discloses an upper horizontal flange having in its thickness a profiled groove for receiving an upper edge of a liner sheet and it would have been obvious at the time of the invention to modify the panel of Wilson in view of Jerit to include such a profiled groove in order to provide a means of securing a pool liner.

Lavin discloses a swimming pool wall which includes a thin wall 32 integrally formed with an upper coping portion. A plurality of reinforcing fins 40 are formed with wall 32 and extend rearwardly therefrom. A step portion or recess 38 is formed between coping portion 36 and wall 32. The top edge region of a liner is located in recess 38. However, there is no disclosure of a groove defined by upper and lower portions of an upper horizontal flange nor such groove extending in a direction away from the outer face of the panel about a same distance as the plurality of stiffening ribs. In contrast, the recess disclosed in Lavin is bounded by thin wall 32 and coping portion 36 which do not extend a width of stiffening ribs or reinforcing fins. It is clear from the figures that the recess remains within the thickness of the thin wall bounded by upper and lower portions of a flange extending toward an interior of a pool and the recess is not bounded by flanges which extend away from an outer face of a panel of a pool about a same distance as stiffening ribs or reinforcing fins. Accordingly, even if Wilson and Lavin were combined as alleged in the Office Action, such a combination would not result in all of the features (e.g., upper and lower portions of a horizontal flange defining a groove and extending about a same distance as stiffening ribs extend in a direction away from an outer face of a panel) alleged to be disclosed by this combination. Thus, claim 1 cannot be obvious over the cited

references and it is believed to be allowable. The dependent claims are believed to be allowable for at least the same reasons and for their own additional features.

Also, on page 13 in the “Response to Arguments” section, it alleged that line 10-13 of the disclosure of the present patent application admit that a compression injection-molding process is well known in the art. It is then alleged that it would have been obvious to one of ordinary skill in the art to have a panel formed by such compression injection-molding. However, the background section of the present application describes modular panels being obtained means by a conventional plastics injection-molding process but there is no disclosure of compression injection-molding being known in the art for the fabrication of a swimming pool panel as recited in claim 10. Further, as described in the previous Office Action response and the previous Office Action, it is acknowledged that Wilson in view of Jerit and Laven do not disclose compression injection-molding of a plastic. Further, Desjoyaux et al. (U.S. Patent No. 6,295,771) does not disclose compression injection-molding as described in the last response. The conventional plastics injection-molding as described in the background section of the present application does not allow larger panels to be made with an acceptable degree of straightness. Applicant has instead utilized compression injection-molding to produce swimming pools from recycled plastic to overcome this problem.

Relative to claims 10-11, as described above, there is no disclosure, teaching or suggestion to cause one to utilize compression injection-molding to form a prefabricated structure for a swimming pool panel. Further, as described above relative to claim 1, there would be no reason for one skilled in the art to look to Carling et al. relative to structures for supporting pools, and even if the proposed combination was made, it would not result in the honeycomb structure recited in claims 10-11. Thus, claims 10-11 are not obvious over the proposed combination and are believed to be allowable. The dependent claims are believed to be allowable for at least the same reasons as claims 10-11 and for their own additional features.

CONCLUSION

It is believed that the application is in condition for allowance, and such action is respectfully requested.

If a telephone conference would be of assistance in advancing prosecution of the subject application, the Examiner is invited to telephone the undersigned attorney at the telephone number provided.

Respectfully submitted,



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